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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT PAPER NUMBER

3727

DATE MAILED: 05/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/002,346

Applicant(s)

VON HOLDT ET AL.

Examiner

Stephen J. Castellano

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-- Th MAILING DATE of this communication appears on th cover sheet with th correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____ .
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____ .
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ . 6) ☐ Other: ____ .

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 6 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is somewhat difficult to understand the relationships based upon size and dimensions stated in claim 6. The best disclosure of the relative size and dimensions of the components is best represented by Fig. 12, which assigns specific dimensions. The other embodiments show similar dimensional relationships. There is no discussion of these relationships in the written specification and applicant has made no attempt to discuss these relationships in remarks or by presenting calculations. As shown in Fig. 12, the first vertical wall section has a height of 0.188, the width of the horizontal connection ledge could either be the vertical extending cross sectional thickness of the ledge ($0.374 - 0.302 = 0.072$) or the horizontal extending cross sectional length of the ledge which extends between the first vertical wall section and the vertical rim ($6.386 - 6.330 = 0.056$). Neither value of the width of the horizontal connection ledge is greater than the height of the vertical wall section.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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omit Claim 1 is indefinite because the terms “consisting” (closed language) and “comprising” (open language) appear next to each other in line 8. It is uncertain whether the elements appearing after the word “consisting” are the only elements that comprise the annular lip or if further elements may comprise the annular lip, as well. It would seem that “comprising” would be the logical fit since “comprising” was the word used in line 3. If this is the case, then the word “consisting” should be deleted. However, if closed language was desired and the word “consisting” was intended, then the word “consisting” in line 8 would contradict the word “comprising” in line 3 and the word “comprising” in line 3 should be changed to “consisting” and the word “comprising” in line 8 should be deleted. The scope of claim 1 is uncertain.

omit Claim 1 recites the limitation "said vertical wall section" in line 11. There is insufficient antecedent basis for this limitation in the claim. Without the word “first” before the word “vertical”, it can not be determined which vertical wall section is being referred to, the first vertical wall section, the vertical wall section of the vertical rim, the single annular wall portion or another part of the upright, annular bucket wall.

keep ⇒ Claim 1 is further indefinite because the radius of said annular bucket wall is not clearly defined. Claim 1 states that the bucket terminates in an annular lip and that the annular lip comprises a single annular wall portion extending along a diagonal path, a first vertical wall section, a vertical rim and a horizontal connection ledge. Therefore, the radius of the bucket wall could be any of the parts of the annular lip or a lower portion of the bucket wall.

omit Claim 6 recites the limitation "the width of said horizontal connection ledge" in line 2. There is insufficient antecedent basis for this limitation in the claim. The width dimension cannot be readily determined, the vertical extending cross sectional thickness of the ledge, the

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horizontal extending cross sectional length of the ledge, the entire horizontal extending dimension of the ledge (the diameter of a circle that is traverses) or the circumferential extending length of the ledge. Note that the entire horizontal extending dimension and the horizontal extending cross sectional length of the ledge are not clearly defined. The specification describes a horizontal annular flange 206 which extends radially outwardly of vertical rim 208. However, the term "horizontal connection ledge" only appears in the claims and is defined in claim 1 as extending between the first vertical wall section and the vertical rim. Therefore, as defined by claim 1, the horizontal connection ledge doesn't extend radially outwardly of the vertical rim 208. Also, the term "length of the diagonal path" could have two meanings, circumferential length or cross sectional length.

Claim 7 is similarly indefinite because it refers to the width of the horizontal connection ledge.

Claim 7 is further indefinite because the distance between the bucket wall and the horizontal connection ledge is not clearly defined. Claim 1 states that the bucket terminates in an annular lip and that the annular lip comprises the horizontal connection ledge. Therefore, the horizontal connection ledge is part of the bucket wall. It cannot be determined how a distance could be clearly defined since another part of the bucket wall is not specifically recited.

Claim 9 recites the limitation "said horizontal wall" in line 1. There is insufficient antecedent basis for this limitation in the claim.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Letica ('805) and Letica ('080).

This rejection is applied insofar as claims 1-5 and 7-9 can be understood.

Letica ('805) discloses embodiments as best shown by the cross sections of Fig. 3, 5 and 7 which read on all of the limitations of the claims.

Letica ('080) discloses embodiments as best shown by the cross section of Fig. 3, which can be read on all of the limitations of the claims.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Letica ('805).

The patentability of claim 6 is determined by the short vertical height of the first vertical wall section.


Letica ('805) discloses a first vertical wall section in the Fig. 5 embodiment which is shorter than the first vertical wall sections in the Fig. 3 and Fig. 7 embodiments. It is noted that the Fig. 5 embodiment has one less rib (2 instead of three) and that the distance between the horizontal connection ledge and the uppermost rib in the Fig. 5 embodiment is reduced. Letica ('805) discloses the invention except for height of the first vertical wall section seems to be greater than the width of the horizontal connection ledge in the embodiment of Fig. 5. Letica ('805) teaches eliminating ribs and reducing the distance between the uppermost rib and the

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horizontal connection ledge the height of the first vertical wall section can be reduced. It would have been obvious to eliminate ribs and reduce the distance between the uppermost rib and the horizontal connection ledge to shorten the height of the first vertical wall section to be less than the width of the horizontal connection ledge in order to save cost associated with the additional material and manufacturing process to form the ribs and the upper extension which extends past the uppermost rib.

In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703) 872-9302. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into Group 3720 will be promptly forwarded to the examiner.

Any inquiry concerning this communication of earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is (703) 308-1035.


Stephen Castellano
Primary Examiner
Art Unit 3727

May 2, 2002